



DEPARTMENT OF LAW
OFFICE OF THE
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ATTORNEY GENERAL

March 22, 1976

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Mrs. Louise Willey
3061 Chichicof Lane
Prescott, Arizona 86301

Dear Mrs. Willey:

You have asked for an opinion on the following questions:

- (a) What are the powers and duties of the Arizona Civil Rights Advisory Board pursuant to A.R.S. § 41-1401 et. seq.?
- (b) Does the Arizona Civil Rights Advisory Board, or any member thereof, have the authority to render findings under the Arizona Civil Rights Act?

A.R.S. § 41-1401(A) includes the Board as a part of the Civil Rights Division, Department of Law. However, for the purpose of statutory construction, the Legislature in A.R.S. §41-1401(F) defined the terms "board" and "division".

"For the purposes of this chapter, 'board' means the Arizona civil rights advisory board and 'division' means the civil rights division within the department of law."

The first mention of a Board power is found at A.R.S. § 41-1402(A) (5).

A. The division may:

* * * *

- 5. After studying recommendations of the board, issue, amend or rescind procedural rules and regulations to carry out the provisions of this chapter.



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The Board is also empowered to have subpoenas issued in furtherance of its hearing functions in the areas of voting and public accommodations. [See A.R.S. § 41-1403(B)(1)]. The only other mention of the Board's statutory powers is contained in A.R.S. § 41-1471(D), (E) and (F).

These provisions relate to your second question concerning the Board's power to render findings under the Act.

The Legislature has defined the words "board" and "division" [A.R.S. § 41-1401(F)]. Having so acted, the legislative definition is controlling, Yetman v. Nauman, 16 Ariz. App. 314, 492 P.2d 1252 (1972).

The power of the Board to hold public hearings under A.R.S. § 41-1471(D) and (E) are subject to conditions precedent. A.R.S. § 41-1471(A), (B) and (C) require that a charge first be filed with the Division. The Division then investigates the charge.

The finding of reasonable or no reasonable cause is made by the Division [A.R.S. § 41-1471(B) and (C)]. If conciliation fails, the Division then schedules a hearing before the Board [A.R.S. § 41-1471(D)]. The threshold determination of cause or no cause is a power reserved to the Division and precludes Board participation.

The statutory provisions for enforcement procedures in cases dealing with alleged employment discrimination contain only the term "division". (See A.R.S. § 41-1481 A - G) Due to the legislative definition, the Division is a readily identifiable entity and does not include the Board or any member thereof. Thus, the statute precludes Board participation in the finding process for employment discrimination cases.

Sincerely,

BRUCE E. BABBITT
Attorney General

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